

**COMPLIANCE MONITORING STRATEGY FOR TITLE VI SECTION 609
SERVICING OF MOTOR VEHICLE AIR CONDITIONERS**

INTRODUCTION

Section 609 of the Clean Air Act, as amended deals with the servicing of motor vehicle air conditioners. The Motor Vehicle Air Conditioning (MVAC) Rule was proposed on September 4, 1991 and promulgated on July 14, 1992. There are two parts to the Rule. First, any service involving the motor vehicle air conditioner refrigerant requires the refrigerant to be recycled by certified technicians using certified equipment. Certified recycling equipment includes recover/recycle and recovery only equipment. Second, the sale of Class I and Class II substances, CFCs and HCFCs respectively, in containers less than 20 pounds is restricted to certified technicians. These containers are referred to as "small cans". The effective date of the statute is January 1, 1992 for establishments servicing motor vehicle air conditioners. There is a one year exemption for establishments that certify that they serviced fewer than 100 motor vehicle air conditioners in 1990. The sales restriction on small cans is effective November 15, 1992. There is no restriction on the sale of containers weighing 20 pounds or more.

In addition, motor vehicle repair shops, air conditioner service technicians, and small can distributors must comply with reporting and recordkeeping requirements under the Rule. Service shops will be required to purchase refrigerant recycling or recovery equipment that has been certified by an EPA accredited laboratory. The purchasers of the equipment must certify to EPA that they have acquired certified recycling or recovery equipment, and that it is operated by properly trained and certified technicians. Technicians performing service must be certified to operate the equipment. To obtain certification a technician must complete an EPA accredited refrigerant recycling training course and pass the exam. The purchasers of small cans of refrigerant must present proof of certification. Distributors of small cans of refrigerant must certify in writing that the refrigerant is for resale with the end user being a certified technician. This written statement must be kept on file with the name of the purchaser and their business address.

It is estimated that there are currently 200,000 establishments performing service on motor vehicle air conditioners. This number may be high because it includes establishments such as gas stations, many of which only recharge air conditioners. Some of these businesses will discontinue this service instead of purchasing recycling equipment since they do not employ mechanics that are able to repair or perform other services on motor vehicle air conditioners. The auto service shops at establishments such as Kmart, Wal-Mart, Sears, and other national chains plan on continuing service of motor vehicle air conditioners. General Motors, Ford, and Chrysler require that recycling equipment be standard equipment at every dealership and plant facility. The National Automobile Dealers Association, representing 20,000 dealerships, expects dealerships to continue doing air conditioner repair work. The number of technicians that need to be certified is estimated to be over 500,000.

The number of retail sales establishments selling small cans of refrigerant is estimated at 10,000. However, the number is expected to decline markedly because of the restricted sales market. Small can retailers such as Kmart, Sears, and Wal-Mart are planning to discontinue sales of the small cans of refrigerant. Some auto parts stores also expect to discontinue sales. In addition, many states have banned the sale of small cans and more are expected to follow suit.

Because the regulated community is so large and comprised of many small businesses, it is important to reach every segment of the regulated community in an educational campaign. It is important for the regulated community to know the reasons behind the regulation, as well as the requirements for servicing motor vehicle air conditioners. By informing the regulated community of what the requirements are and when they have to comply with them we expect to gain voluntary compliance from a large sector of the community.

The initial and long term focus of the compliance program will be education. Educational materials will be written and disseminated on a continuing basis. There will also be an inspection component to the program. However, due to limited resources the compliance program will focus on education. In fiscal year 1992, a limited number of inspections will take place. Compliance will be analyzed during calendar year 1992. The results of the analysis will be used to evaluate the effectiveness of the educational program and the need for a comprehensive inspection and enforcement program in fiscal year 1993 and beyond.

Inspection authority under Section 114 can be delegated to the states. However, a state or local based inspection program is not being actively pursued at this time because currently there are only three states that have or are planning a compliance program. Most other states are not involved, primarily due to a lack of resources. In fiscal year 1993 Section 105 grant funds will be available to state and local agencies to develop compliance programs.

While delegation of inspection authority is permitted under Section 609, the enforcement actions for violations of Federal law can not be delegated under Section 609. Enforcement actions must be taken by EPA. Enforcement actions can be best handled at the Regional level. The Regions will have to decide how to most appropriately allocate resources between education and enforcement. Both education and enforcement are important to the compliance program. However, if a Region decides to put all of its resources towards education and none towards enforcement, Headquarters will not be able to handle that Region's enforcement cases.

Violations of this regulation will be handled by field citations, administrative penalties, and in cases in which the length of violation exceeds one year or the penalty exceeds \$200,000, civil judicial authority. The field citation program is anticipated to be in effect in the fall of 1993. Field citations can only be issued by EPA employees. Administrative Penalties will be used most frequently until there is authority for field citations.

The Penalty Policy will be developed by the Office of Enforcement within the next several months to address the penalty amounts assessed for violations. SSCD will develop the Enforcement Guidance to address the conditions under which penalties will be sought. The Penalty Policy and Enforcement Guidance will be used together.

The Compliance Strategy breaks down the three elements of the compliance program. They are education, compliance analysis, and compliance monitoring. Attachment A details the compliance programs in the ten states that regulate the service of motor vehicle air conditioners.

COMPLIANCE MONITORING ELEMENTS

The aim of the Compliance Strategy is to educate the regulated community about the requirements for recycling the refrigerant in motor vehicle air conditioners. The reason behind the regulation and the detrimental effects of releasing ozone depleting refrigerants to the atmosphere will also be addressed. Limited inspections will be conducted and compliance will be analyzed during calendar year 1992. The inspection program may be modified based on the results of the compliance analysis.

1. EDUCATION

The focus of the compliance program is education. Stationary Source Compliance Division (SSCD) and Global Change Division (GCD) are both planning outreach programs. GCD has divided the Stratospheric Ozone Protection Branch to add an outreach section. SSCD and GCD will coordinate outreach efforts. Several Regions have also been involved in education. Educational outreach will include the distribution of brochures, fact sheets, and posters to the regulated community and the general public. Other forms of outreach such as articles written for trade publications, press releases, hot lines, and public service announcements may be produced by SSCD and GCD. Communication strategies will be issued for major educational initiatives.

SSCD has developed several educational documents and others are planned. The first document was a fact sheet designed for the regulated community. It briefly outlines the stratospheric ozone depletion problem, the requirements of Section 609 of the Clean Air Act as amended, and the proposed regulation. This fact sheet was distributed the week of November 4, 1991 to trade associations and relevant businesses who in turn distributed it to their members or customers. This fact sheet was also distributed to the Regions and States.

After the regulation is promulgated, GCD will revise the brochures originally developed to promote voluntary mobile air conditioning recycling. One brochure will be targeted to the general public and the other will be targeted to the regulated community. The brochure for the general public will be designed to inform the public about the stratospheric ozone depletion problem, and the requirements for

servicing motor vehicle air conditioners. The revised brochure for the regulated community will address the requirements of the regulation.

SSCD and GCD will work to coordinate their mailings and mailing lists. SSCD developed a mailing list for the first fact sheet that added trade associations and businesses to the STOPAC committee list. The mailing list will be updated and expanded on a regular basis.

Another educational campaign will begin before the small can sales restriction goes into effect. A sign explaining the restriction on the sale of small cans must be posted in small can retail sales establishments. SSCD will produce a poster that can be used as the required sign and distribute it to small can retailers.

SSCD has developed a fact sheet for the Regions that will emphasize the important changes from the Proposed Rule to the Final Rule. Also, applicability determinations that Headquarters makes (i.e. issues of national significance, cross regional issues, and issues of first impression) will be addressed in periodic information bulletins. SSCD will continue to educate the regulated community on compliance issues as technology changes and as the other provisions of Section 609 become effective.

2. COMPLIANCE ANALYSIS

After implementation has begun, compliance will be analyzed. The compliance analysis will consist of two parts, a review of state compliance programs and a compliance survey. To provide a comprehensive view of compliance, the analysis will include states with similar regulations and a compliance program, several states in Region I with similar regulations and no compliance program, and the remaining states in Region I with no similar regulations or compliance program. There will also be a sampling of locations across the country.

The first part will be a review of compliance rates from states that have a similar MVAC regulation and a compliance/ inspection program. The employees of these state compliance programs will be interviewed, and their compliance data and analyses will be reviewed.

Second, a compliance survey will be conducted predominantly in Region I. Other locations across the country that the Senior Environmental Employee (SEE) inspectors visit will also be included. The survey will be used to assess compliance rates and the effectiveness of the educational campaign in states with similar regulations and no compliance program, and states with no similar regulations or compliance program. The survey will include a limited number of questions and a records review. A survey form was used in the beginning; now a level 1 inspection checklist is being used. The questions will ask for basic data such as name and address of the business. Questions such as "Is certified refrigerant recycling equipment present?", and "How did you find out about the regulations?" will be asked. The records reviewed will include copies of the technician certification forms.

This analysis will assess the compliance rates and the success of our educational activities. These states provide a cross section of the country in both geography and population. The following table illustrates the three compliance scenarios in the states that will be included in the compliance analysis.

TABLE 1. STATES EVALUATED IN COMPLIANCE ANALYSIS

STATE REGULATION SIMILAR TO FEDERAL <u>COMPLIANCE PROGRAM</u>	STATE REGULATION SIMILAR TO FEDERAL <u>NO COMPLIANCE PROGRAM</u>	NO STATE REGULATION <u>SIMILAR TO FEDERAL</u>
Florida	Connecticut	Massachusetts
Hawaii	Maine	New Hampshire
Wisconsin	Vermont	Rhode Island

There will be a nationwide inspection program as described in the Compliance Monitoring section under Service Entities and Small Can Retailers. SSCD and the Regions will work together to develop a system to schedule and track tips and inspections so that resources are used most effectively and there is good communication between the inspectors, Headquarters, and the Regions.

If the compliance analysis indicates that there is a problem with compliance, SSCD will expand the educational campaign and increase the number of inspections if possible given resource limitations. The inspections will be conducted at establishments that are selected at random and at establishments that have been reported to EPA. Enforcement action will be taken where violations are found, and the cases will be widely publicized.

3. COMPLIANCE MONITORING

While the educational campaign is the primary compliance strategy, EPA will also respond to noncompliance tips. A form has been developed to record tip information and form letters have been developed to respond to tips. These will be sent to the Regions and can be distributed to state and local governments and other interested organizations. The Regions will send a response to tip letter to establishments that have been reported for possible noncompliance. The letter will inform the establishments about the requirements of Section 609 of the Clean Air Act Amendments of 1990, and the MVAC regulations. A letter will also be sent to thank the complainant for their assistance. In some instances, a Section 114 letter may be issued to collect information from an establishment to determine whether: it has purchased certified recovery or recycling equipment; has certified technicians; and is keeping required records. Tips will be recorded and tracked so that inspections can be targeted at those locations. Headquarters will exchange tip information with the Regions and send SEE inspectors to locations which are suspected to be in violation of the regulation.

A. COMPLIANCE PROGRAM

There are five elements in the Compliance Program. To monitor compliance with these regulations EPA will monitor service entities, small can retailers, equipment owner certifications, technician certification courses, accredited laboratories, and substantially identical equipment. Inspections will be targeted at the service entities and small can retailers.

Service Entities and Small Can Retailers

There will be two levels of inspections for motor vehicle air conditioner service entities. A level 1 inspection will check for the presence of certified refrigerant recycling equipment and certified technicians. An in-depth, level 2 inspection will involve a more detailed records review. These records include the owners equipment certification, file copies of technician training, and if the business is using recover only equipment; records of the quantity of regulated refrigerant reclaimed off-site each month. Customer invoices should be requested and reviewed during a level 2 inspection. While the requirement to maintain these records was deleted from the Final Rule, inspectors may still request and use the invoices to make compliance determinations and as evidence in enforcement cases.

There will also be inspections at small can retailers. These will be level 1 inspections. Because the final rule eliminated recordkeeping at small can retailers the inspector will have to determine compliance by trying to purchase a small can of refrigerant without any proof of technician certification.

SSCD considered coordinating inspections with the Underground Storage Tank (UST) inspection program, and the Office of Mobile Sources (OMS) fuel volatility and tampering inspection programs. The UST program is state or locally based and enforcement varies depending on the locality. The OMS program is more compatible with Motor Vehicle Air Conditioning. The OMS program is controlled by Headquarters and enforcement is not delegated to state or local governments. The OMS inspections are conducted at similar service facilities and OMS has begun a new phase of tampering inspections at auto parts stores. This provides an opportunity to inspect small can retailers as well.

SSCD will add MVAC inspections on to the OMS inspection programs. Due to the limited scope of the OMS inspection contract their contract inspectors will not be able to inspect for MVAC compliance until fiscal year 1993. Currently, OMS inspectors are assisting in information dissemination. EPA employees in OMS may also conduct compliance surveys in 1992.

Inspections will also be performed by the SEEs that are currently doing woodstove inspections. The SEEs will be able to follow-up on tips and conduct inspections nationwide in fiscal year 1992. They have been cross-trained for Motor Vehicle Air Conditioning Inspections during their spring training session.

Even though MVAC compliance monitoring and enforcement will ultimately be a Regional program, Headquarters has added MVAC inspections to these existing programs to provide an inspection component to the program given the limited resources. This will provide inspection coverage in the beginning while the Regions are developing their inspection programs. SSCD and the Regions will develop a method to coordinate and track tips and inspections.

Equipment Owner Certification

The purchaser of certified recycling equipment must certify to EPA that approved recycling equipment has been purchased, and only properly trained and certified technicians will operate the equipment. The certification must also include the name, address, and telephone number of the service establishment; name of equipment manufacturer, model number, and serial number; and small entity certification if applicable. EPA has developed and distributed an example certification form. While not required, EPA encourages businesses to use the standard form because it makes the certifications easier to manage.

The certifications may be used by the Regions, SSCD, GCD, and possibly OMS for inspection targeting and checking on certification information. The certifications will be physically filed by state. The files are currently at Headquarters. However, they will be transferred to the Regions in the future. While both the Regions and Headquarters will need to use the certifications, they will be most needed in the Regions. This will require coordination and Headquarters will have to occasionally call the Regions to get information for the Headquarters inspectors. However, this is more feasible and accurate than keeping duplicate files. As discussed in the Implementation Plan, the feasibility of a computer tracking system was studied but the cost was determined to be excessive. The cost of data entry was prohibitive because there is not a standard certification form required and most certifications submitted are handwritten.

Technician Certification Courses

Technicians must be certified to operate refrigerant recycling equipment. The proposed regulations require that technicians complete a course involving on-the-job training; training through self-study of instructional material; or on-site training involving instructors, video, or demonstrations. The technicians must learn the regulatory requirements, the proper use of refrigerant recycling equipment, and the environmental importance of recycling refrigerant. The technicians must pass an exam demonstrating their knowledge of the SAE J standards (J1989, J1990, J1991) and the recommended procedures for recycling air conditioning refrigerant. Future technology, and new refrigerant systems must also be addressed.

Programs that offer technician certification courses must be accredited by EPA. GCD will accredit the technician training programs. GCD has organized a review panel consisting of staff from GCD, SSCD, and the Office of General Counsel (OGC). The panel discussed a procedure to review applications, suggest revisions, and approve courses. To minimize compliance problems it is important to ensure the quality of these courses when they are accredited.

SSCD will oversee compliance of the training programs. Initial compliance can be achieved with a thorough accreditation process, Section 114 information requests, and inspections. The accreditation process should control the quality of training programs. SSCD will respond to noncompliance tips by requesting information under Section 114 authority including: course training materials, exam questions, student scores, and individual graded exams. The third party grader may

also have information which SSCD could obtain through a Section 114 letter. SSCD would request the course materials because the majority of these courses are self-study. Inspections may be conducted at the course headquarters to review records.

Laboratory Accreditation

EPA will accredit laboratories that wish to test and certify the refrigerant recycling equipment. Refrigerant recycling equipment must purify the air conditioner refrigerant according to SAE standard J1990 in order to be certified. Recovery only equipment must extract refrigerant in accordance with SAE standard J2209. This standard was proposed in a supplemental notice dated April 22, 1992.

Currently Underwriters Laboratories Incorporated is the only laboratory approved to certify recycling equipment. Due to the complicated nature of the certification tests, only a few labs in the country are able to perform them. Therefore, SSCD expects very few laboratories to request accreditation.

SSCD will monitor compliance at the laboratories. Compliance may be determined by on-site inspection, observation of testing, and review of records necessary for accreditation. Random testing of certified models may also be conducted.

Substantially Identical

In addition to monitoring certified refrigerant recycling equipment, SSCD will monitor substantially identical equipment. Uncertified equipment can become approved if it is determined to be "substantially identical" to equipment that is certified. Uncertified equipment must have been purchased prior to the proposal of the regulation. An example of circumstances under which equipment could be determined to be "substantially identical" may include equipment that was purchased from a manufacturer that no longer makes recycling equipment.

Few models are expected to be certified as "substantially identical." The review will stringently adhere to the equipment certification standards. The majority of the equipment now approved required changes to be certified to meet the SAE J standards. Because very few models met the requirements without having to be modified, it is not expected that many models that submit applications for "substantially identical" will meet the standards. Some unapproved equipment may be able to be modified to meet the SAE standards and become "substantially identical."

SSCD may assess compliance by random testing of models certified as "substantially identical" at an accredited laboratory chosen by EPA. This testing will ensure that the equipment met or was properly retrofitted to meet the specifications that were submitted to EPA. EPA does not know how many applications for "substantially identical" status will be submitted.

B. INSPECTOR TRAINING

Motor Vehicle Air Conditioning inspectors must complete training in basic health and safety, basic inspector training, and program specific inspector training. Inspector training is discussed in detail in the Inspector Training Plan. A self-study course manual has been developed for Motor Vehicle Air Conditioning inspectors. It covers the requirements of Section 609, the levels of inspection, and contain inspection checklists. It only address inspections at entities that service motor vehicle air conditioners and establishments that sell small cans of refrigerant. SSCD will oversee the development of other inspector training materials as necessary to assess compliance of testing laboratories, and technician training programs.

ATTACHMENT A

STATES WITH MOTOR VEHICLE
AIR CONDITIONING CFC RECYCLING REGULATIONS

Connecticut

Act PA 89-227 (HB 5630)

■Effective Date: October 1, 1989

■Requires:

- sale of CFC for automobile air conditioners restricted to licensed car dealer or mechanic

■Effective Date: January 1, 1992

■Requires:

- refrigerant recycling required when servicing motor vehicle air conditioners (small business have one additional year to comply)

■Effective Date: January 1, 1993

■Requires:

- recycling of CFCs required at shops that serviced less than 100 vehicles per year

■Compliance Program:

Bureau of Air Management

John Gove (203) 566-2690

- waiting on federal regulations before they develop theirs
- following the time schedule in the Clean Air Act Amendments
- have had press releases
- no inspections planned
- may respond to tips

Florida

Chapter 90-290

■Effective Date: July 1, 1991

■Requires:

- certified technicians
- use of UL certified recycling equipment
- establishments with 2 or fewer bays or less than 5 employees per shift have one additional year to comply

■Compliance Program:

Department of Environmental Regulation

Bob Dougherty (904) 488-1344

- hired six inspectors
- are combining the inspection with tampering inspections

Hawaii

SB 1344

■Effective Date: January 1, 1991

■Requires:

- ban on sale of containers weighing less than 15 pounds

■Compliance Program:

Air Pollution Control; Clean Air Branch; Health Department

Kathy Hendricks (808) 543-8200

- identified all businesses they could think of that sell small cans
- sent a letter informing them of the ban
- followed up with inspections
- some businesses had not received the letter so they were informed of the rule then checked up on
- have responded to tips received

■Effective Date: January 1, 1991

■Requires:

- use of UL certified recycling equipment (exempts equipment in use prior to December 31, 1989 that is not UL approved)

■Compliance Program

Motor Vehicle Repair Industry Board

Michael Michado (808) 586-2701

Maine

PL 622 (LD 2032)

■Effective Date: January 1, 1992

■Requires:

- use of certified recycling equipment
- CFC containers less than 15 pounds for commercial or industrial use only (between October 1, 1991 and January 1, 1992 must have a warning label)

■Compliance Program:

Department of Environmental Protection; Bureau of Air Quality Control

Ron Severence (207) 289-2437

- no inspections planned
- can request records
- may use summer interns in the future

Minnesota

Chapter 560

■Effective Date: January 1, 1993

■Requires:

- use of certified recycling equipment
- prohibits sale of CFC's in cans less than 15 pounds except if shown proof of purchasing recycling equipment

■Compliance Program:

Minnesota Pollution Control Agency; Air Quality Division

(612) 296-7664 Greg Pratt

- no compliance program planned because there are no funds
- they have received tips but have not found a way to respond

New York

SB 3475/AB 1538

■Effective Date: January 1, 1991

■Requires:

- knowingly venting CFCs prohibited
- use of approved recycling equipment required
- if less than 4 bays then one additional year to comply

■Effective Date: January 1, 1992

■Requires:

- recapture of CFC's before disposal of motor vehicle air conditioning system
- small shops must recycle
- use or sale of containers of CFCs less 15 pounds restricted to persons with approved refrigerant recycling equipment and meeting Section 398c of vehicle and traffic law

■Compliance Program:

Department of Environmental Conservation

Mark Degan (518) 457-3200

Kathy Dalton (518) 457-2044

- service shops report to the department of motor vehicles to renew their facility license. They must prove that they have purchased recycling equipment for renewal. Licenses are not renewed yearly so not everyone is caught right away.
- currently drafting their regulations
- no enforcement planned

Oregon

SB 1100

■Effective Date: January 1, 1991

■Requires:

- ban on CFC containers less than 20 pounds

■Effective Date: August 10, 1991

■Requires:

- use of UL certified recycling equipment
- establishments with fewer than four employees will have one additional year to comply

Effective Date: August 10, 1992

Requires:

- small shops to recycle refrigerant

■Compliance Program:

Department of Environmental Quality; Air Quality Division

Jerry Coffer (503) 239-8644

- no money for implementation or enforcement
- no decision yet on how to respond to tips

- have put out a press release but there has been no coverage
- two page brochure about the law and approved equipment distributed by equipment manufacturers, some door to door
- working on a brochure for consumers
- outside organizations have been putting on seminars and placing equipment required in training schools, wrecking yards, body shops, and any establishment with mechanics. The intent is to have equipment in any shop that has the possibility of doing any work related to the air conditioning system.

Vermont

HB 260

■Effective date: January 1, 1991

■Requires:

- use of UL certified recycling equipment
- ban on sale of CFC containers less than 15 pounds (October 1, 1989 until January 1, 1991 containers must have a warning label)

■Compliance Program:

Agency of Natural Resources; Air Pollution Control Division

Chris Jones (802) 244-8731

- no formal compliance plan
- education information and newspaper articles
- going to retail outlets to inform them of the small can ban
- working with automobile dealers and organized groups on education

Washington

Chapter 199

■Effective Date: July 1, 1992

■Requires:

- use of refrigerant extraction equipment
- prohibits sale of refrigerant in containers designed for consumer recharge

■Compliance Program:

Washington State Department of Ecology

Doug Brown (206) 649-7082 or Stu Clark (206) 459-6632

- developing the regulation
- will implement in 1993, after the federal program

Wisconsin

Act 284/SB 382

■Effective Date: January 1, 1991

■Requires:

- ban on sales of CFC containers weighing less than 15 pounds

■Effective Date: April 1, 1991

■Requires:

- use of recycling equipment
- trained technicians

■Effective Date: June 30, 1992

■Requires:

- recapture of CFC's prior to disposal of system

■Compliance Program:

Wisconsin Department of Natural Resources; Bureau of Air Management

Jim Rabbit (608) 267-9512

- two investigators and use of weights and measures inspectors equivalent to one man year
- registering businesses requires proof of purchasing recycling equipment
- bought mailing lists
- going to include recovery equipment soon
- training requirements more difficult than federal regulations, hands on training is mandatory plus knowledge of state laws
- Auto repair-Consumer Protection Agency
- Auto Salvage-Natural Resources